

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

LUIS CARDENAS-ORNELAS,

Case No. 3:17-cv-00461-MMD-CLB

Y

Petitioner,

## ORDER

RENEE BAKER, *et al.*,

## Respondents.

This habeas matter is before the Court on Petitioner Luis Cardenas-Ornelas's Declaration re: Unable to Communicate with Counsel. (ECF No. 74.)

The Court appointed David Neidert, Esq. to represent Cardenas-Ornelas in December 2017. (ECF No. 10.) Since then, Cardenas-Ornelas has filed numerous *pro se* letters/motions stating that he could not get in touch with Neidert despite letters and phone calls, or had not received copies of filings. (ECF Nos. 25, 27, 31, 50, 57, 58, 70, 71, 74.) However, the Court has found no indication of a conflict between Neidert and Cardenas-Ornelas, or that Neidert was unable to adequately represent Cardenas-Ornelas. (See, e.g., ECF Nos. 28, 32, 33, 59, 60.)

On October 8, 2020, Respondents filed an answer (ECF No. 69) to Cardenas-Ornelas's Amended Petition (ECF No. 11). Accordingly, any reply was due by November 9, 2020.<sup>1</sup> (See ECF No. 56.) No reply was filed, and the deadline expired without request for extension.

In recent letters (ECF Nos. 70, 71), Cardenas-Ornelas stated that he had not heard from Neidert since July 2020, despite mailing him letters, and prison restrictions prevented

<sup>1</sup>Under Rule 5(e) of the Rules Governing Section 2254 Cases in the United States District Courts, a “petitioner may file a reply to the respondent’s answer,” but it is not required.

1 Cardenas-Ornelas from calling Neidert during business hours, Monday through Friday.

2 In its February 2021 Order (ECF No. 72), the Court informed Cardenas-Ornelas:

3 the briefing period in this case has closed, meaning that no additional filings  
4 are required. The Court will evaluate the merits of Cardenas-Ornelas's  
5 Amended Petition (ECF No. 11) in due course. Given the Court's heavy case  
load and the delays caused by the COVID-19 pandemic, a written decision  
may take several months.

6 (ECF No. 72 at 2.) Nevertheless, Neidert was instructed to respond directly to the Court  
7 within 14 days by filing (1) a motion seeking leave to file an untimely reply, or (2) a notice  
8 stating that a reply was not warranted. (*Id.*)

9 Neidert responded to the order informing the Court that, after reviewing the petition  
10 and the Respondents' answer, he does not believe a reply is warranted in this case. (ECF  
11 No. 73.)<sup>2</sup> Accordingly, the case stands as submitted awaiting a merits decision.

12 Petitioner's Declaration (ECF No. 74) asks the Court to have Neidert contact him  
13 with updates and send him copies of documents filed in the case.

14 As explained in the prior order, the briefing period in this case has closed and  
15 additional filings will not be accepted. That means there will be no developments in this  
16 case for Neidert to communicate to Cardenas-Ornelas until the Court issues a merits  
17 decision, which may take over a year to issue because of the Court's large case load.  
18 Neidert will inform Cardenas-Ornelas once a merits decision is entered or move for  
19 withdrawal and appointment of new counsel if the closing of his practice progresses before  
20 a merits decision is entered. Further letters or declarations to the Court repeating this  
21 complaint will be disregarded.

22 DATED THIS 16<sup>th</sup> Day of March 2021.



23  
24  
25 MIRANDA M. DU  
26 CHIEF UNITED STATES DISTRICT JUDGE  
27  
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27 <sup>2</sup>Neidert states that he is "in the process of closing his private practice" and will file  
28 a motion to withdraw "in the near future, so that counsel can be appointed to represent  
Mr. Cardenas-Ornelas in future proceedings." (ECF No. 73 at 1.)